

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Community Alternatives

4 (Amended After Comments)

5 907 KAR 1:045. Reimbursement provisions and requirements regarding~~[Payments~~
6 ~~for]~~ community mental health center services.

7 RELATES TO: KRS 205.520(3), 210.370

8 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R.
9 447.325, 42 U.S.C. 1396a-d

10 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
11 Services, Department for Medicaid Services has responsibility to administer the pro-
12 gram of Medical Assistance. KRS 205.520(3) authorizes the cabinet, by administrative
13 regulation, to comply with any requirement that may be imposed, or opportunity pre-
14 sented by federal law to qualify for federal Medicaid funds~~[for the provision of medical~~
15 ~~assistance to Kentucky's indigent citizenry]~~. This administrative regulation establishes
16 the reimbursement provisions and requirements regarding~~[method for determining~~
17 ~~amounts payable by the Medicaid Program for]~~ community mental health center ser-
18 vices provided to Medicaid recipients who are not enrolled with a managed care organi-
19 zation.

20 Section 1. Definitions. (1) "Community mental health center" or "CMHC" means a fa-
21 cility which meets the community mental health center requirements established in 902

KAR 20:091.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Enrollee" means a recipient who is enrolled with a managed care organization.

(4) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(5) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(6) "Provider" is defined by KRS 205.8451(7).

(7) "Recipient" is defined by KRS 205.8451(9).

Section 2. General Reimbursement Provisions. (1) The department shall reimburse
a[Community Mental Health Centers.] participating in-state community mental health
center[centers shall be reimbursed] as established in this subsection.[follows:]

(a)[(1) Effective July 1, 2005] The payment rate that was in effect on June 30, 2002,
for the community mental health center for community mental health center services
shall remain in effect[throughout state fiscal year (SFY) 2006] and there shall be no
cost settling.

(b)[(2)] Allowable costs shall not:

1. Exceed customary charges which are reasonable;

2.[(a) Allowable costs shall not] Include:

a.[4.] The costs associated with political contributions;

b.[2.] Travel or related costs for trips outside the state (for purposes of conventions,
meetings, assemblies, conferences, or any related activities);

c.[3.] The costs of motor vehicles used by management personnel which exceed

\$20,000 total valuation annually (unless the excess cost is considered as compensation to the management personnel); or

d.[4:] Legal fees for unsuccessful lawsuits against the cabinet.

(c)[(b)] Costs (excluding transportation costs) for training or educational purposes outside the state shall be allowable costs.

(2) To be reimbursable, a service shall be:

(a) Provided:

1. By a CMHC:

a. That is currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

b. Except as established in subsection (3) of this section, that is currently participating in the Medicaid Program in accordance with 907 KAR 1:671; and

2. To a recipient;

(b) Medically necessary; and

(c) A covered CMHC service pursuant to 907 KAR 1:044.

(3) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the **fee-for-service** Medicaid Program~~[- if the managed care organization in which the enrollee is enrolled does not require the provider to be currently participating in the Medicaid Program].~~

Section 3.[2:] Implementation of Payment System. (1)(a) Payments shall be based on units of service.

(b) One (1) unit for each service shall be defined as follows:

Service	Unit of Service
[Inpatient Service	15 minutes
<u>Outpatient Service</u>	<u>15 minutes]</u>
Individual <u>Outpatient</u> Therapy	15 minutes
Group <u>Outpatient</u> Therapy	15 minutes
Family <u>Outpatient</u> Therapy	15 minutes
Collateral <u>Outpatient</u> Therapy	15 minutes
[Intensive In-Home Services] [Therapy]	15 minutes
Home Visit Service	15 minutes
Emergency Service	15 minutes
Personal Care Home Service	15 minutes
Evaluations, Examinations, and Testing including] Psy- <u>chological Testing</u>	15 minutes
Therapeutic Rehabilitation [for Children]	1 hour
<u>Medication Prescribing and Monitoring]</u> Therapeutic Rehabilitation for Adults	1 hour
Chemotherapy Service]	15 minutes
Physical Examinations	15 minutes
<u>[Services in a Detoxification Setting</u>	<u>15 minutes]</u>
<u>Screening</u>	<u>15 minutes</u>
<u>Assessment</u>	<u>15 minutes</u>

<u>Crisis Intervention</u>	<u>15 minutes</u>
<u>Service Planning</u>	<u>15 minutes</u>
<u>Screening, Brief Intervention, and Referral to Treatment</u>	<u>15 minutes</u>
<u>Medication Assisted Treatment for a Substance Use Disorder</u>	<u>Per Diem[15 minutes]</u>
<u>Mobile Crisis Services</u>	<u>1 hour[15 minutes]</u>
<u>Assertive Community Treatment</u>	<u>Per Diem[15 minutes]</u>
<u>Intensive Outpatient Program Services</u>	<u>Per Diem[15 minutes]</u>
<u>Residential Crisis Stabilization Services</u>	<u>Per Diem[15 minutes]</u>
<u>Residential Services for Substance Use Disorders</u>	<u>Per Diem[15 minutes]</u>
<u>Partial Hospitalization</u>	<u>Per Diem[15 minutes]</u>
<u>Day Treatment</u>	<u>1 hour[15 minutes]</u>
<u>Comprehensive Community Support Services</u>	<u>15 minutes</u>
<u>Peer Support Services</u>	<u>15 minutes</u>
<u>[Parent or Family Peer Support Services]</u>	<u>15 minutes]</u>

- 1
- 2 (2) An initial unit of service which lasts less than fifteen (15) minutes may be billed as
- 3 one (1) unit.

(3) Except for an initial unit of a service, a service that is:

(a) Less than one-half (1/2) of one (1) unit shall be rounded down; or

(b) Equal to or greater than one-half (1/2) of one (1) unit shall be rounded up.

(4) An individual provider shall not exceed four (4) units of service in one (1) hour.

(5) An overpayment~~[Overpayments]~~ discovered as a result of an audit~~[audits]~~ shall be settled through recoupment or withholding.

(6) A community mental health center~~[The vendor]~~ shall:

(a) Complete an annual cost report on forms provided by the department ~~[cabinet]~~ and included in the Community Mental Health Center~~[Intellectual Disability]~~ Reimbursement Manual;

(b) No~~[not]~~ later than ninety (90) days from the end of the community mental health center's~~[vendor's]~~ accounting year, submit the cost report to the department; and

(c)~~[the vendor shall]~~ Maintain an acceptable accounting system to account for:

1. The cost of total services provided;

2.~~;~~ Charges for total services rendered;~~;~~~~to~~ and

3. Charges for covered services rendered to eligible recipients.

(7) A~~[Each]~~ community mental health center shall make available to the department all recipient records and fiscal records:

(a)~~[cabinet]~~ At the end of each fiscal reporting period;

(b) Upon request by~~;~~ and at intervals as the department; and

(c)~~[cabinet may require, all patient and fiscal records of the provider,]~~ Subject to reasonable prior notice by the department~~[cabinet]~~.

(8) Payments due a community mental health center shall be made at least once a

month~~[reasonable intervals but not less often than monthly]~~.

Section 4~~[3.]~~ Nonallowable Costs. The department~~[cabinet]~~ shall not reimburse:

(1)~~[make reimbursement]~~ Under the provisions of this administrative regulation for a service that is~~[services]~~ not covered by 907 KAR 1:044; or

(2) For~~[, mental health center services, nor for that portion of]~~ a community mental health center's costs found unreasonable or nonallowable in accordance with the ~~["]~~Community Mental Health Center~~[Intellectual Disability]~~ Reimbursement Manual~~["]~~.

Section 5~~[4.]~~ Reimbursement of Out-of-state Providers. Reimbursement to a participating out-of-state community mental health center~~[centers]~~ shall be the:

(1) Lower of charges;

(2)~~[, or the]~~ Facility's rate as set by the state Medicaid Program in the other state;~~[,]~~

or

(3)~~[the]~~ Upper limit for that type of service in effect for Kentucky providers.

Section 6~~[5.]~~ Appeal Rights. A community mental health center~~[provider]~~ may appeal a Department for Medicaid Services decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 7~~[6.]~~ Not Applicable to Managed Care Organization. A managed care organization shall not be required to reimburse for community mental health center services in accordance with this administrative regulation.

Section 8. Federal Approval. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

1 **[Section 9. Incorporation by Reference. (1) The "Community Mental Health Cen-**
2 **ter][Intellectual Disability] [Reimbursement Manual", December 2013][July 2005 edi-**
3 **tion"][, is incorporated by reference.**

4 **(2) This material may be inspected, copied, or obtained, subject to applicable**
5 **copyright law, at the Department for Medicaid Services, 275 East Main Street,**
6 **Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or online**
7 **at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.**

907 KAR 1:045

REVIEWED:

Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:

Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 907 KAR 1:045

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Medicaid Program reimbursement provisions and requirements regarding community mental health center (CMHC) services. CMHCs operate under the authority of regional community mental health boards [there are fourteen (14) in Kentucky] - in accordance with KRS 210.370 through KRS 210.485 - and are licensed and regulated by the Cabinet for Health and Family Services, Office of Inspector General.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Medicaid program reimbursement provisions and requirements regarding CMHC services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Kentucky Medicaid program reimbursement provisions and requirements regarding CMHC services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing the Kentucky Medicaid program reimbursement provisions and requirements regarding CMHC services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment adds reimbursement for services (added to companion administrative regulation 907 KAR 1:044, Community mental health center services) not previously included in the scope of Medicaid CMHC services. Among the new services are substance use disorder services for all ages/categories of Medicaid recipients. Previously, the Department for Medicaid Services (DMS) only covered substance use treatment for pregnant women and children. The amendment also adds other new behavioral health services not previously covered by the Medicaid program and clarifies that the reimbursement rates for CMHC services remains in effect at the same level. The amendment after comments eliminates terms which are broad categories of services rather than specific services; corrects the unit of service duration for several services; updates the name for certain services; and eliminates the Community Mental Health Center Reimbursement Manual from the incorporated material.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish reimbursement for new services being added to the scope of CMHC services covered by the Medicaid Program including substance use disorder services for all ages/categories of Medicaid recipients. Previously, the Department for Medicaid Services (DMS) only covered substance use treatment for pregnant women and children; however, the Affordable Care Act mandates Medicaid coverage of substance use disorder services for all; thus, the amendment is necessary to comply

with a federal mandate. The amendments after comments which eliminates broad descriptive terms is necessary to eliminate confusion as it may be unclear which specific services fall under a given broad category and the broad category is unnecessary. Updating the names of certain services is also necessary to eliminate confusion.

Correcting the unit durations of certain services is necessary to synchronize the units with what was approved by the Centers for Medicare and Medicaid Services (CMS). Removing the Community Mental Health Center Reimbursement Manual from the incorporated material is necessary as the manual is no longer used.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by complying with a federal mandate. The amendments are comments will conform to the content of the authorizing statutes by clarifying policies/eliminating confusion and synchronizing policies with what was approved by CMS.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with a federal mandate. The amendments are comments will assist in the effective administration of the authorizing statutes by clarifying policies/eliminating confusion and synchronizing policies with what was approved by CMS.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The amendment applies to all CMHCs. There are currently fifteen (15) CMHCs participating in the Medicaid Program. 73,779 Medicaid recipients received CMHC services during the course of the state fiscal year that ended June 30, 2013 with CMHCs receiving a total of \$21.9 million from DMS for the services and \$38.86 million from managed care organizations for the services.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. No compliance action is mandated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): CMHCs will benefit by reimbursed for more services covered by the Medicaid program and recipients will benefit by having access to more CMHC services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services, including substance use disorder services, covered in community mental health centers due to the variables involved as DMS cannot estimate how many community mental health centers will choose to accordingly expand their

scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in community mental health centers. Additionally, some of the new services are expected to prevent Medicaid recipients from having to be admitted to an inpatient acute care hospital or psychiatric hospital (which are more expensive levels of care.) Thus, expanding the scope of such services could reduce Medicaid program expenditures in aggregate.

(b) On a continuing basis: The response in paragraph (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the amendment applies to all regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30) and 42 C.F.R. 447.204.

2. State compliance standards. KRS 205.520(3) states, "to qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(30) requires Medicaid program payments to be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the same geographic area. 42 C.F.R. 447.204 requires Medicaid reimbursement to be sufficient to enlist enough providers to ensure that services are available to Medicaid recipients at least to the extent that they are available to the general population.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The policy is not stricter than the federal standard.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation as will any community mental health center owned by a local government agency.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Department for Medicaid Services (DMS) is unable to project the impact of this amendment on revenues for state or local government agencies as it depends on how many community mental health centers that are owned by a government entity elect to expand their scope of services to include substance use disorder services and other new behavioral health services and on utilization of those services in such entities.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in community mental health centers due to the variables involved as DMS cannot estimate how many community mental health centers will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in community mental health centers. Additionally, some of the new services are expected to prevent Medicaid recipients from having to be admitted to an inpatient acute care hospital or psychiatric hospital (which are more expensive levels of care.) Thus, expanding the scope of such services could reduce Medicaid program expenditures in aggregate.

(d) How much will it cost to administer this program for subsequent years? The response to question (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

DEPARTMENT FOR MEDICAID SERVICES 907 KAR 1:045

The Department for Medicaid Services is deleting the "Community Mental Health Center Reimbursement Manual", December 2013 from being incorporated by reference as the material is no longer used.